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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

KEON A. HART, 48735,

Petitioner,

-v-

DECISION AND ORDER
08-CV-6091Fe

ERIE COUNTY SHERIFF,

Respondent.

The petitioner, Keon A. Hart, acting *pro se*, seeks relief pursuant to 28 U.S.C. § 2254, alleging that his conviction in Supreme Court, Erie County, State of New York, on May 8, 2008 was unconstitutionally obtained, as set forth more precisely in the petition. Petitioner has requested *in forma pauperis* status.

Petitioner's request to proceed as a poor person is granted.

First, it appears petitioner's conviction is not final because he has not yet been sentenced. Petitioner indicates on the bottom of page nine that he is scheduled to be sentenced on May 8, 2008. He appears to have pleaded guilty to a charge on February 4, 2008. Because petitioner is not being held pursuant to a judgement of a state court, this petition pursuant to 28 U.S.C. § 2254 is premature. The petition is, therefore, dismissed as premature.

In addition, the Court forewarns petitioner that 28 U.S.C. § 2254(b)(1)(A) requires a petitioner for habeas corpus relief to first exhaust his state court remedies with respect to each of the

grounds raised in the petition. It appears that petitioner has not exhausted, at least, his claim with respect to ineffective assistance of counsel because his papers indicate that he has a collateral attack addressing the grounds for this claim currently pending.

IT IS SO ORDERED.



DAVID G. LARIMER

United States District Judge

DATED: March 5, 2008
Rochester, New York